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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,035	08/04/2006	Werner Boltshauser	37960-000111/US	5534
30593 7590 01/30/2008 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER NGUYEN, JIMMY T	
			ART UNIT 3725	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/562,035

Applicant(s)

BOLTSHAUSER, WERNER

Examiner

Jimmy T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/22/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

Receipt is acknowledged of an Information Disclosure Statement (I.D.S.), filed December 22, 2005, which I.D.S. has been placed of record in the file. An initialed, signed and dated copy of the form PTO-1449 is attached to this Office action. Also note that the co-pending letters of applications 10/542,504 and 10/502,939 have not been received; therefore, these items in the IDS have not been considered.

### ***Drawings***

The drawings are objected to because they include a foreign language "ERSATZBLATT (REGEL 26)" at the bottom of each page. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several

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views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

**The disclosure is objected to because it fails to include section headings.**

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

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- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

**The disclosure is further objected to because of the following informalities:**

Page 1, lines 5-9, and page 4, lines 20-31 are objected to because they are improperly refer a claim in the specification. The specification is a stand alone document and is not read in light of the claims. Appropriate correction is required.

**The abstract is objected to** because it includes the form and legal phraseology often used in patent claims, such as "means" and "said,.". Therefore, the words "means" and "said" throughout the abstract should be corrected and avoided. Additionally, it should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.. Therefore, the phrase, "The aim of the invention is to produce.." should be avoided and corrected. Additionally, the abstract must be presented on a separate sheet, **apart from any other text.**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, next to the last line, there is no antecedent basis for the words “the outer margin region” in the claim.

Regarding claim 2, line 5, the recitation “a flat pressed tube” lacks clear antecedent basis because it is unclear whether this tube is referring to the tube as claimed in claim 1, line 7, or to a different tube.

Regarding claim 2, lines 5-6, there is no antecedent basis for the words “the lateral marginal regions” in the claim.

Regarding claim 4, next to the last line, there is no antecedent basis for the words “the outer margin region” in the claim.

Regarding claim 7, line 6, there is no antecedent basis for the words “the arising tube” in the claim.

Regarding claim 10, line 3, the recitation “a singular cylindrical can shell” lacks clear antecedent basis because it is unclear whether this shell is referring to the shell as claimed in claim 1, or to a different shell.

Regarding claim 10, line 5, the recitation “cross sectional restriction” lacks clear antecedent basis because it is unclear whether this restriction is referring to the restriction as claimed in claim 1, or to a different restriction.

Regarding claim 12, line 4, there is no antecedent basis for the words “the upper face side” in the claim.

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Regarding claim 18, the line before the last two lines, there is no antecedent basis for the words “the outer margin region” in the claim.

Regarding claim 21, next to the last line, there is no antecedent basis for the words “the outer margin region” in the claim.

Regarding claim 22, line 8, there is no antecedent basis for the words “the outer margin region” in the claim.

Regarding claim 23, lines 10-11, there is no antecedent basis for the words “the outer margin region” in the claim.

Regarding claim 30, lines 3-4, there is no antecedent basis for the words “the enlarged one” in the claim.

Regarding claim 31, line 2, there is no antecedent basis for the words “the upper closure member” in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-4, 7-12, 14-15, 18-20, 27-28, 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris (US 3,337,944) in view of Büdenbender (hereinafter “Bud”) (US 5,186,592) and Saurin et al. (hereinafter “Saurin”) (US 4,315,132).**



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Regarding claims 1-3, 9-12, 14-15, 18, 20, 27-28, and 30-33, Morris discloses a device and a production of a can body comprising: forming metal strip (20) to a tube (fig. 1), welding a longitudinal seam in between lateral edges of the tube shaped metal strip (see character (40) in fig. 1), the longitudinal seam is welded on a flat pressed tube of the tube (fig. 1), the metal strip (20) is moved in its longitudinal direction through a forming device (38, 39) and is passed next to a welding device (40, 41), severing tube sections of the tube (at reference (50) in fig. 1), forming the sections into can shells (55) having a circular cylindrical cross-section (fig. 1). Morris does not disclose each of the can shells is forming with a cross sectional restriction and a bottom or top closure member is attached to the respective restriction by laser welding a circumferential seam. However, Bud disclose a can shell (1) is forming with a cross sectional shoulder-shaped restriction (5) at either faces of the shell (fig. 1) and a bottom or top closure member (3) (col. 3, lines 58-59) is attached to the respective restriction by laser welding (9), and an outer marginal region (fig. 1) of bottom or top closure member is adapted to the shape of the respective restriction (fig. 1), wherein the face side of the bottom or the top and the face side of the can shell at the bottom or the top are on opposite sides of the can body, one inside and one outside of the can (fig. 1). At a face side of the can shell, an annular buckle (5) is formed radially outwards (i.e. outward toward the inside of the can shell). A base covering (see portion (4')) is fixed in such a manner the connection (9) of the can shell to the can bottom is covered by it. Bud teaches the forming of the restriction is to reduce any crevice or residual space between the bottom closure member and the can shell for preventing corrosion and trapping residue (col. 3, lines 28-34). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention



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was made to form a cross section restriction at either faces of each of the can shells of Morris and to attach a bottom or top closure member to the restriction by laser welding as taught by Bud, in order to provide a bottom closure to the can shell and to reduce any crevice or residual space between the bottom closure member and the can shell for preventing corrosion and trapping residue. As to the longitudinal seam is welded by laser, the patent to Saurin teaches that it is old and well known in the can manufacturing art to weld a longitudinal seam of a tube (fig. 7) by laser (48). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to weld the lateral edges of the tube of Morris by a laser, as taught by Saurin, since such welding method is old and well known in the can manufacturing art, in order to form a tube. Note that the Applicant has not disclosed that welding by laser solves any stated problem or is for any particular purpose (see page 24, lines 4-7).

Regarding claim 4, Morris discloses cutting a metal strip into sections (fig. 5, see pre-cut lines on the metal strip), forming the sections into a closed flat pressed shape by means of forming mold and tools (figs. 8-10) with the sections in series (fig. 5), welding joining of the sections (at (40)), severing tube sections (50), and forming the sections to can shells (54).

Regarding claims 7, 8, and 19, Morris discloses the cutting procedure is carried out with cutting edge (figs. 17, 18), the cutting edge being moved together with the tube (fig. 17) and being reset after having severed a tube section (see up and down arrows on the cutting blade (78) in fig. 17). Incisions (24) are formed (fig. 17) and the cutting procedure being carried out in the flat regions between the incisions (fig. 17).

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**Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris (US 3,337,944), Büdenbender (hereinafter "Bud") (US 5,186,592), and Saurin et al. (hereinafter "Saurin") (US 4,315,132), in further view of Cornelius (US 3,526,186).**

Morris, as modified by Bud and Saurin, discloses the invention substantially as claimed as set forth above except for a film strip. However, the patent to Cornelius, in a can making art, discloses a film strip (13) is applied to a metal strip (10) in order to serve as an efficient aid in drawing of the metal strip (col. 2, lines 13-15). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the metal strip of Morris, with a film strip as taught by Cornelius, in order to provide an efficient aid in drawing of the metal strip.

**Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morris (US 3,337,944), Büdenbender (hereinafter "Bud") (US 5,186,592), and Saurin et al. (hereinafter "Saurin") (US 4,315,132), in further view of Radtke (US 6,389,866).**

Morris, as modified by Bud and Saurin, discloses the invention substantially as claimed as set forth above except for a valve on the upper closure member. However, the patent to Radtke, in a can forming art, teaches a valve (col. 2, line 33) is provided on an upper closure member (10) in order to form an aerosol can. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the upper closure member Morris, with a valve, as taught by Radtke, in order to form an aerosol can. As to the valve is being laser welded to the can shell, it would have

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been an obvious matter of design choice to weld by laser, since applicant has not disclosed that welding by laser solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the attaching method as disclosed by Radtke.

**Claims 21, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Büdenbender (hereinafter “Bud”) (US 5,186,592) in view of Morris (US 3,337,944), and Saurin et al. (hereinafter “Saurin”) (US 4,315,132).**

Bud discloses a can body with restrictions and upper and bottom closure members as claimed as set forth above. Bud discloses the can shell (1), but Bud does not expressly disclose how the can shell is formed. However, the patent to Morris, in a can forming art, can be applied to teach that it is old and well known to form a can shell by longitudinal seaming lateral edges of a metal strip by welding. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the can shell of Bud, by longitudinal seaming lateral edges of a metal strip by welding, as taught by Morris, since such process is old and well known in the can forming art for forming a can shell. As to the longitudinal seam is welded by laser, the patent to Saurin teaches that it is old and well known in the can manufacturing art to weld a longitudinal seam of a tube (fig. 7) by laser (48). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to weld the lateral edges of the tube of Bud by a laser, as taught by Saurin, since such welding method is old and well known in the can manufacturing art, in order to form a tube. Note that the Applicant has not

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disclosed that welding by laser solves any stated problem or is for any particular purpose (see page 24, lines 4-7).

**Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bündenbender (hereinafter “Bud”) (US 5,186,592), in further view of Radtke (US 6,389,866).**

Bud discloses a can body with a restriction and an upper closure member as claimed as set forth above except for a valve. However, the patent to Radtke, in a can forming art, teaches a valve (col. 2, line 33) is provided on an upper closure member (10) in order to form an aerosol can. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the upper closure member Bud, with a valve, as taught by Radtke, in order to form an aerosol can.

***Allowable Subject Matter***

Claims 13, 17 and 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show relevant can production method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T. Nguyen whose telephone number is (571) 272-4520. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm with alternating Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272- 4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTNguyen  
January 25, 2008

  
JIMMY T. NGUYEN  
PRIMARY EXAMINER